

Panaji, 18th October, 1984 (Asvina 26, 1906)

SERIES II No. 29

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Department of Personnel and Administrative Reforms

Order

No. 2/7/76-PER (Vol. II)

The following Departmental Selection Committee was constituted for selection made on 7-9-84 in respect of the post of Veterinary Officers (group 'B') on ad-hoc basis in the Directorate of Animal Husbandry & Veterinary Services.

- (i) Development Commissioner—Chairman.
- (ii) Secretary Revenue—Member.
- (iii) Director of Animal Husbandry and Veterinary Services—Member.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).

Panaji, 10th October, 1984.

Addendum

No. 6/6/74-PER-Part

Read: Order No. 6/6/74-PER-Part dt. 19-6-1984.

Add following para as para 3 to the order cited above.

"3. Shri Balaji Counto has been granted this proforma promotion consequent upon ad-hoc promotion of his junior viz. Shri A. Venkataratnam to Grade I of the service w. e. f. 6-11-1976."

By order and in the name of the Administrator of Goa, Daman and Diu.

N. P. Gaunekar, Under Secretary (Personnel).

Panaji, 5th October, 1984.

Directorate of Vigilance

Memorandum

No. 1-4-78-VIG(P. F.)

In partial modification of Memo of even number dated 3-8-1978 sanction of the Chief Vigilance Officer is hereby conveyed to the nomination of Shri R. S. Mardolkar Deputy Labour Commissioner as Vigilance Officer for the Office of Commissioner, Labour and Employment.

S. D. Sadhale, Dy. Director (Vigilance).

Panaji, 9th October, 1984.

Secretariat Administration and Coordination Division

Order

No. 1/2/83-SA & C

Read: Government Order No. 3-11-79/LAWD/Mun/Gen dt. 1-10-84.

The Administrator of Goa, Daman and Diu is pleased to promote on ad-hoc basis Shri S. S. Kantak, Aval Karkun to the cadre of Mamlatdar/Block Development Officer in the pay scale of Rs. 550-900 (Group 'B' Gazetted post) with effect from the date he takes the charge of the post and post him as Joint Mamlatdar, Sanguem vice Shri A. C. Kamat, Joint Mamlatdar appointed as Chief Officer, Sanguem Municipal Council, with immediate effect and until further orders.

The above appointments/promotions will not bestow on Shri S. S. Kantak any claim for regular appointment and the services rendered on ad-hoc basis in the grade will not count for the purpose of seniority in that grade and for eligibility for promotion to the next higher post.

On promotion, the pay of Shri Kantak shall be fixed in the time scale of pay of Rs. 550-900 as per the rules.

By order and in the name of the Administrator of Goa, Daman and Diu.

G. H. Mascarenhas, Under Secretary (S. A. & C.).

Panaji, 8th October, 1984.

Works, Education and Tourism Department

Order

No. 13/14/84/WET

Read:- Government Order No. DE/EST/TA/10/73 dated 17/10/1973.

On the recommendation of Union Public Service Commission Shri Jagdish Prasad Pathak is appointed to officiate in the post of Lecturer in Commerce in Government Polytechnic, Panaji, with effect from 15/9/84 (F. N.).

The appointment is temporary and he will be on probation for a period of two years.

The scale of the pay of the post is Rs. 700-1300/- and his pay is fixed in the minimum of scale as recommended by the Union Public Service Commission vide their letter No. F. 1/1053/83-R(H) dated 15/6/84. He will be entitled for dearness allowance and house rent allowance as admissible to the employees of this Administration.

Other conditions of his service will be governed by the relevant rules and orders issued by the Central Government and applicable to this Union Territory on this behalf from time to time.

His appointment is subject to the condition that in case he is found to be having bad character/reputation or antecedent his services will be terminated.

By order and in the name of the Administrator of Goa, Daman and Diu.

V. S. Sawant, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 8th October, 1984.

Forest and Agriculture Department

Notification

No. 7-1-83-FOR

In pursuance of the provisions of section 3 of the Goa, Daman and Diu Preservation of Trees Act, 1984 (6th of 1984) the Administrator of Goa, Daman and Diu is pleased to constitute the Tree Authority for the revenue District of Goa as follows:—

1. Development Commissioner — Chairman.
2. Shri Mario Vaz, M. L. A. — Member.
3. Shri Vasu Paik Gaonkar, M.L.A. — Member.
4. Collector of Goa — Member.
5. Shri Ladu L. Harmalkar, Sarpanch, Nagargaon Pan-chayat, Satari — Member.
6. Shri Manuel Fernandes Sarpanch, Betul-Quepem — Member.
7. Conservator of Forests — Member Secretary.

This issues in supersession of Government Notification of even number dated 28-3-1984.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. P. Panvelkar, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 10th October, 1984.

Corrigendum

No. 2-9-77-AH

In partial modification of Government Order No. 2-9-77-AH dated 26th August 1983, the appointment of Dr. Ashok Raikar, to the upgraded post of Veterinary Officer, Group 'B' Gazetted in the scale of Rs. 550-900 on regular basis shall take effect from 12th May, 1978, being the date from which he was actually appointed to the post of Veterinary Officer, and not with effect from 2nd November, 1977 as shown therein.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. P. Panvelkar, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 9th October, 1984.

Corrigendum

No. 2-9-77-AH

In partial modification of Government Order No. 2-9-77-AH dated 24th August, 1983, the appointment of Dr. Benjamin Braganza (appearing at Sl. No. 17) to the upgraded post of Veterinary Officer, Group 'B' Gazetted in the scale of Rs. 550-900 on regular basis shall take effect from 9th May, 1978, being the date from which he was actually appointed to the post Veterinary Officer, and not 2nd November, 1977 as indicated therein.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. P. Panvelkar, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 8th October, 1984.

Local Administration and Welfare Department

Office of the Asstt. Registrar of Cooperative Societies

Order

No. ARCS/DMN/LQD/8/84/69

Read:— Order No. SACS/ADT/FISH/LQD/DMN/82/3127 dated 31st July, 1982 appointing Shri G. K. Kurian, Superintendent of fisheries sub-Office, Daman as the liquidator of the Matsya Udyog Sarvodayee Sah. Mandli Ltd., Daman.

In partial modification of this Office order referred to above, I C. H. Dalal, Block Development Officer and Asstt. Registrar of Coop. Societies, Daman hereby appoint Shri P. R. Shetye, Senior Auditor of Coop. Societies as the liquidator of the Matsya Udyog Sarvodayee Sah. Mandli Ltd., Daman vice Shri G. K. Kurian, Superintendent of fisheries Daman with effect from the date of his taking over the charge.

Further in virtue of the powers vested in me under section 109(1) of the Maharashtra Coop. Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu, I hereby further extend the period of the liquidator of the aforesaid society upto 10-9-1985.

C. H. Dalal, Block Development Officer and Asstt. Registrar of Coop. Societies.

Daman, 22nd September, 1984.

Revenue Department

Notification

No. 22/13/82-RD

Whereas by Government Notification No. 22/13/82-RD dated 28-3-83 published on page 7 of Series II, No. 1 of the Official Gazette dated 7-4-1983 it was notified under Section 6 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the land specified in the schedule appended to the said notification (hereinafter referred to as the "said land") was needed for public purpose viz. for laying pipe line for disposal of sewage effluent at St. Inez.

And whereas in the opinion of the appropriate Government (hereinafter referred to as the "Government") the said land is not required for the aforesaid purpose.

Now, therefore, the Government is pleased to declare under Sub-section (1) of Section 48 of the said Act that it has withdrawn from acquisition of the said land for the aforesaid public purpose and that the aforesaid Government notification shall be deemed to be cancelled so far as it relates to the said land. The persons interested in the said land, may lodge to the Land Acquisition Officer, PWD (Cell) Altinho, Panaji within a period of thirty days from the date of this Notification claims under Sub-section (2) of Section 48 of the said Act, for the damages suffered by them in consequence of the notice or of any proceedings thereunder and for costs reasonably incurred by them in persecution of the proceedings under the said Act relating to the said land.

A plan of the land, shall be available for inspection in the office of the Land Acquisition Officer, PWD (Cell) Altinho, Panaji for a period of thirty days from the date of this Notification.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 10th October, 1984.

Notification

No. 22/213/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for Rehabilitation of affected people under Anjunem Irrigation Project at Saleli, Satari Taluka.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be

disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Special Land Acquisition Officer, A.I.P. Duler, Mapusa to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following

officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Special Land Acquisition Officer, AIP Duler Mapusa.
3. The Executive Engineer, W.D. V(XXI) Kerim Satari, Goa.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Special Land Acquisition Officer, A.I.P. Duler, Mapusa for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Holding No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Satari	Saleli	42	1	1. Shri Krishnarao A. R. Sardessai. 2. Shri Daji Govindrao Rane Sardessai. 3. Shri Babasaheb Narbarao Rane Sardessai.	49,300.00
			44	1	O: Shri Krishnarao A. R. Sardessai.	58,050.00
			55	1	O: Shri Krishnarao A. R. Sardessai. 2. Shri Daji Govindrao Rane Sardessai. 3. Shri Babasaheb Narbarao Rane Sardessai.	83,100.00
			59	1	O: 1. Shri Krishnarao A. R. Sardessai. 2. Shri Daji Govindrao Rane Sardessai. 3. Shri Narendra Ramrao Rane Sardessai. 4. Shri Anandrao Ramrao Rane Sardessai.	1,42,900.00
			62	1	O: Shri Krishnarao A. R. Sardessai. 2. Shri Daji Govindrao Rane Sardessai. 3. Shri Narendra Ramrao Rane Sardessai. 4. Shri Anandrao Ramrao Rane Sardessai.	2,50,000.00
			67	1	O: 1. Shri Krishnarao A. R. Sardessai. 2. Shri Daji Govindrao Rane Sardessai. 3. Shri Babasaheb Narbarao Rane Sardessai.	40,800.00
Total						6,24,150.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 29th September, 1984.

Notification

No. 22/222/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for Road from Khandepar to Nallakond in V. P. Khandepar, Ponda, Goa.

Therefore the Government is pleased to notify under Sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Dy. Collector (2-South) Margao, to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under Sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Dy. Collector (2-South) Margao.
3. The Executive Engineer, W.D. XVIII (R&B) P.W.D. Ponda Goa.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector (2-South) Margao, for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Ponda	Khandepar	179 (part)		H: 1. Ramchandra Dhaktu Gaunkar. 2. Baburao Puno Gaunkar. 3. Toliyo Yesso Gaunkar. 4. Yeshwant Shanu Gaunkar. 5. Raulu Ramchandra Gaunkar. 6. Domlo Devu Gaunkar.	1400.00
			180	1 part	H: Narsinha Purushottam Sinai Khandeparkar.	420.00
			180	2 part	H: Shashidhar Vassudev Khandeparkar.	320.00
			180	3 part	H: Ramchandra Bhikambhat Ghate.	650.00
			180	4 part	H: 1. Shashidhar Vassudev Khandeparkar. 2. Narsinha Purushottam Sinai Khandeparkar. 3. Ramchandra Bhikambhat Khandeparkar. 4. Prabhakar Vishnu Ghate. 5. Narayan Vishnu Ghate. 6. Shridhar Vishnu Ghate.	750.00
			180	5 part	H: Narsinha Purushottam Sinai Khandeparkar.	460.00
			180	6 part	H: Shashidhar Vassudev Sinai Khandeparkar.	650.00
			181 (part)		H: Trivikram Sinai Khandeparkar.	2450.00
			175	1 part	H: Trivikram Sinai Khandeparkar.	125.00
			175	4 part	H: Madhukar Vassudev Sinai Khandeparkar.	250.00
					North: S. No. 176/1, 2, S. No. 180/6, 175/1, Road & 175/4. South: S. No. 179, 180/1 to 6, S. No. 181. East: Ex. Road, S. No. 176/2, 180/6 & 175/4. West: S. No. 178/6, 180/4, 5, 6 & 181.	
					Total	7475.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 29th September, 1984.

Notification

No. 22/39/84-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land acquisition for construction of road from Taleshwar to Manasbag in Bicholim Taluka.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Additional Dy. Collector, North Panaji to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Additional Dy. Collector, Goa North Division, Panaji.
3. The Executive Engineer, Works Division II (R&B) P.W.D. Panaji.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Additional Dy. Collector, Goa North Division, Panaji for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
(Description of the said land)

Sr. No.	Taluka	Village/Ward	Survey No.	Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Bicholim	Mulgao	124	0	1. Dattaram Kusta Kudaikar. 2. Shambhu Surya Kudaikar both r/o Manasbag Mulgao.	1150.00

1	2	3	4	5	6	7
Bicholim	Mulgao	123	3	Yeshwant P. Rivonkar of Manasbag.	1175.00	
		110	1	Anuciacao Perreira e Lobo.	65.00	
				Tenant: Ankush Sangun Mandrekar of Manasbag		
				Mulgao.		
		110	2	Anuciacao Perreira e Lobo.	40.00	
				T: Surya Sagun Mandrekar of Manasbag.		
		116	1	Anuciacao Perreira e Lobo.	360.00	
		113	—	Dempo Mining Corporation, Sirigao-Mines.	2450.00	
		118	3	Keshav Yeshwant Sinai Mulgaonkar r/o Assonora	75.00	
				Bardez Goa.		
		90	—	1. Pandu Narayan Raut.	170.00	
				2. Laxman Thakle Raut.		
				3. Ama Vishnu Raut.		
				4. Vishwanath Datto Raut.		
				5. Subha Shiva Raut.		
				6. Ganesh Babli Raut.		
				7. Soma Shankar Raut.		
				8. Bombi Vaman Raut.		
				9. Datta Shiva Raut r/o Gaonkarwado-Mulgao.		
		89	—	1. Pundalik Nakul Raut.	375.00	
				2. Radha Pundalik Raut both r/o Gaonkarwado-		
				-Mulgao.		
		72	1	Shri Devi Kalbai Devasthan of Mulgao.	175.00	
				Tenant: 1. Rajaram Bhau Gad.		
				2. Jairam Bhau Gad.		
		73	1	Ladu Vassu Porob r/o Gaonkarwada Mulgao.	40.00	
		73	2	Ladu Vassu Porob of Gaonkarwada of Mulgao.	30.00	
		73	3	Smt. Ablem Raghunath Porob of Gaonkarwada-	100.00	
				-Mulgao.		
		73	4	Ladu Vassu Porob-Gaonkarwada Mulgao.	35.00	
		73	5	Shri Dev Ramvansh of Mulgao.	35.00	
				Tenant: Mahadev Satu Porob of Mulgao.		
		73	8	Rama Jairam Porob of Gaonkarwada Mulgao.	25.00	
		73	7	Ladu Vassu Porob of Gaonkarwada Mulgao.	25.00	
		74	1	1. Prabhakar Sakharan Gad.	160.00	
				2. Mahadev Pandu Gad.		
				3. Ramakant Shiva Gad all r/o of Gaonkarwada,		
				Mulgao.		
		74	2	Keshav Vassu Porob of Gaonkarwada Mulgao.	35.00	
		74	3	Laxman Vithal Porob of Gaonkarwada Mulgao.	30.00	
		74	4	1. Laxman Vithal Porob.	30.00	
				2. Mahadev Vithal Porob.		
				3. Rama Arjun Porob all r/o Gaonkarwada		
				Mulgao.		
		74	7	1. Babi Vithal Gad.	75.00	
				2. Mahadev Vithal Gad r/o of Gaonkarwada.		
		65	1	1. Mahadev V. Porob.	115.00	
				2. Rajaram V. Porob r/o of Gaonkarwada.		
		65	3	1. Madhu Sitaram Raut.	80.00	
				2. Chandrakant S. Raut.		
				3. Rauji S. Gad.		
				4. Subha B. Gad.		
				5. Biva V. Gad r/o Gaonkarwada Mulgao.		
		65	4	Govind B. Raut r/o of Gaonkarwada Mulgao.	100.00	
		64	1	Ramchandra N. Gad r/o of Gaonkarwada Mulgao.	40.00	
		64	2	Sazro K. Porob r/o of Gaonkarwada Mulgao.	110.00	
		64	3	Grampanchayat of Mulgao.	70.00	
		64	4	1. Apa B. Porob.	65.00	
				2. Shantaram B. Porob r/o Gaonkarwada Mulgao.		
		64	5	Pandurang B. Porob.	110.00	
				Sazro B. Porob both r/o Gaonkarwada Mulgao.		
		64	6	Pandurang A. Gad r/o Gaonkarwada Mulgao.	230.00	
		64	7	Apple R. Porob r/o Gaonkarwada Mulgao.	65.00	
		64	8	Sitaram R. Porob r/o of Gaonkarwada Mulgao.	70.00	
		64	9	Laxman V. Porob r/o of Gaonkarwada Mulgao.	70.00	
		64	10	1. Sadanand B. Porob r/o of Gaonkarwada	160.00	
				Mulgao.		
				2. Soma B. Porob.		
		48	1	1. Narayan V. Gad.	500.00	
				2. Bhikaro N. Gad.		
				3. Madhukar S. Gad.		
				4. Ramakant S. Gad.		
				5. Babli N. Gad.		
				6. Motiram V. Gad.		
				7. Atraman B. Gad.		
				8. Prabhakar S. Gad.		
				9. Pandurang N. Gad.		
				10. Bhiva B. Gad.		
				11. Shantaram B. Gad.		
				12. Vishram B. Gad.		
				13. Vishnu D. Gad all r/o Gaonkarwada Mulgao.		
		48	2	Govt. of Goa, Daman & Diu.	255.00	

1	2	3	4	5	6	7
Bicholim	Mulgao	38	1	Caetano Manvel Lobo of Mulgao.		340.00
		38	2	— do —		275.00
		37	1	Comunidade of Mulgao.		35.00
		30	1	Ramchandra Narayan Gad of Gaonkarwada Mulgao.		
		29	1	Comunidade of Mulgao.		140.00
		29	2	Shambu Narayan Porob.		585.00
				Siva Ramchandra Porob both r/o Gaonkarwada Mulgao.		
		91	4	Ganesh Babli Raut r/o Gaonkarwada Mulgao.		30.00
		91	5	Subha Bhiva Raut.		30.00
		91	7	1. Arjun Vithal Raut. 2. Tukaram Vithal Raut. 3. Sonu Vithal Raut all r/o Shirodwadi Mulgao.		30.00
		91	6	Pandu Narayan Raut of Gaonkarwada Mulgao.		40.00
		91	8	Vishwanath Datta Raut of Gaonkarwada Mulgao. Gopal Datta Raut.		75.00
		93	15	Pandu Narayan Raut of Gaonkarwada Mulgao.		30.00
		93	16	1. Subha Bhiva Raut. 2. Madhukar Sitaram Raut. 3. Bhiva Vishram Raut of Gaonkarwada Mulgao.		35.00
		93	17	1. Vasant Laxman Raut of Gaonkarwada Mulgao. 2. Shivram Babaji Raut. 3. Govind Babaji Raut. 4. Babaji Keshav Raut.		35.00
		93	18	Ganesh Babli Raut of Gaonkarwada Mulgao.		35.00
		88	1	Raghu Ladu Gad of Gaonkarwada Mulgao.		195.00
		88	2	Comunidade of Mulgao.		45.00
		78	1	Jaiwantrao Surya Sardessai r/o Bicholim. Tenant: Mahadev Biti Porob of Mulgao.		40.00
		78	2	Sazro Krishna Porob r/o Gaonkarwada Mulgao.		110.00
		78	3	Shambu Tukaram Porob r/o Gaonkarwada Mulgao.		60.00
		78	4	Isabela Ferreira of Mulgao. Tenant: Narayan Raghunath Porob of Mulgao.		65.00
		77	6	Ramchandra Shiva Porob. Sazro Krishna Porob both r/o Gaonkarwada Mulgao.		30.00
		77	8	1. Dattaram Shiva Raut. 2. Atmaram V. Raut. 3. Laxman Thakle Raut. 4. Shuba Bhiva Raut. 5. Ganesh Babli Raut. 6. Pandu Narayan Raut. 7. Arjun Vithal Raut. 8. Gopal Audo Raut. 9. Bombi Vaman Raut all r/o Gaonkarwada Mulgao.		45.00
		77	22	Pandurang Zipri Porob r/o Gaonkarwada Mulgao.		40.00
		77	23	Shri Devi Satri Kelbai Devasthan of Mulgao.		150.00
		77	25	Ablem Raghunaty Porob r/o Gaonkarwada Mulgao.		35.00
		77	28	Chandre Dasu Porob r/o Gaonkarwada Mulgao.		25.00
		77	29	Ladu Vasu Porob r/o Gaonkarwada Mulgao.		45.00
		77	30	1. Tukaram Sonu Porob. 2. Ramchandra Shiva Porob r/o Gaonkarwada Mulgao.		40.00
		77	31	Raghu Gopi Sawant r/o Gaonkarwada Mulgao.		25.00
		76	3	Keshav Vatu Porob r/o Gaonkarwada Mulgao.		50.00
		76	5	Gopal Raghuvir Porob r/o Gaonkarwada Mulgao.		35.00
		75	1	Narayan Vishnu Gad r/o Gaonkarwada Mulgao.		100.00
		62	1	Marto Dattaram Gad r/o Gaonkarwada Mulgao.		35.00
		62	2	1. Motivaram V. Gad. 2. Mortu D. Gad. 3. Babi V. Gad. 4. Gopal R. Gad. 5. Sazro Gad. 6. Sakharan S. Gad. 7. Raghu L. Gad. 8. Narayan V. Gad. 9. Madhukar S. Gad. 10. Atmaram B. Gad all r/o Gaonkarwada Mulgao.		75.00
		62	3	Ramchandra N. Gad r/o Gaonkarwada Mulgao.		40.00
		62	7	Ramakant S. Gad r/o Gaonkarwada Mulgao.		40.00
		62	8	Ramakant S. Gad r/o Gaonkarwada Mulgao.		30.00
		62	9	1. Motiram Vasu Gad. 2. Atamaram B. Gad. 3. Pandurang M. Gad. 4. Narayan V. Gad. 5. Bhiva V. Gad. 6. Shantaram B. Gad. 7. Vishram B. Gad. 8. Vishnu D. Gad. 9. Ramakant S. Gad. 10. Prabhakar S. Gad. 12. Madhukar S. Gad all r/o Gaonkarwada Mulgao.		25.00

1	2	3	4	5	6	7
Bicholim	Mulgao	62	10	Motiram V. Gad r/o Gaonkarwada Mulgao.		25.00
		62	11	1. Chandrakant N. Gad.		50.00
				2. Pandurang N. Gad r/o Gaonkarwada, Mulgao.		
		63	1	Sazro K. Porob r/o Gaonkarwada Mulgao.		80.00
		63	2	1. Apa B. Porob.		40.00
				2. Shantaram B. Porob r/o Gaonkarwada, Mulgao.		
		63	5	Ablom Raghunath Porob r/o Gaonkarwada Mulgao.		35.00
		63	6	Sitaram R. Porob r/o Gaonkarwada Mulgao.		35.00
		63	7	Laxman Arjun Vaigonkar r/o Gaonkarwada Mulgao.		35.00
		63	8	Soma Bhiva Porob r/o Gaonkarwada Mulgao.		80.00
		63	9	1. Motiram V. Gad.		50.00
				2. Atmaram B. Gad.		
				3. Pandurang M. Gad.		
				4. Narayan V. Gad.		
				5. Bhiva V. Gad.		
				6. Shantaram B. Gad.		
				7. Vishram B. Gad.		
				8. Vishnu D. Gad.		
				9. Ramakant S. Gad.		
				10. Prabhakar S. Gad.		
				11. Bhikaro M. Gad.		
		40	0	1. Rajaram Bhau Gad.		120.00
				2. Jairam Bhau Gad both r/o Gaonkarwada, Mulgao.		
		47	4	Mahadev Tatu Naik r/o Gaonkarwada Mulgao.		125.00
		47	8	Dattaram Yesso Porob r/o Gaonkarwada Mulgao.		30.00
		47	9	1. Narayan Vishnu Gad.		210.00
				2. Bhikaro Nakul Gad.		
				3. Madhukar Sakaram Gad.		
				4. Ramakant Sakharam Gad.		
				5. Babaji Nauso Gad.		
				6. Atmaram Babli Gad all r/o Gaonkarwada Mulgao.		
		47	10	1. Narayan Vishnu Gad.		115.00
				2. Madhukar Sakharam Gad.		
				3. Madhukar Sakharam Gad.		
				4. Ramakant Sakharam Gad.		
				5. Babaji Navso Gad.		
				6. Atmaram Bali Gad all r/o Gaonkarwada, Mulgao.		
		46	4	Mahadev Tatu Naik r/o Gaonkarwada Mulgao.		140.00
		39	7	Shabhu Raghunath Porob r/o Gaonkarwada Mulgao.		40.00
		40	0	1. Narayan Vishnu Gad.		195.00
				2. Bhiso Vishnu Gad r/o Gaonkarwada, Mulgao.		
		39	8	Jaiwantrao Sardesai r/o Gaonkarwada, Mulgao.		60.00
		41	2	1. Atmaram Bhikaji Arondekar.		85.00
				2. Rama Bhikaji Arondekar r/o Gaonkarwada Mulgao.		
		125	1	Caetano Nazareth r/o Gaonkarwada Mulgao.		685.00
Total						15025.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 13th September, 1984.

Notification

No. RD/LRC/47/71/75(i)

In exercise of the powers conferred by section 4 of the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969), the Administrator of Goa, Daman and Diu hereby appoints the Enquiry Officer, City Survey, Diu to be the Survey and

Settlement Officer for the District of Diu for the purposes of the said Code.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 11th October, 1984.

Industries and Labour Department

Order

No. 28/2/84-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under

the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 26th September, 1984.

**IN THE LABOUR COURT GOA, DAMAN AND DIU,
PANAJI GOA**

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No.: LCC/4/84, LCC/5/84 & LCC/6/84

1. Shri. Prakash K. Pednekar (LCC/4/84) — Applicants
2. Shri Carlos F. Saldanha (LCC/5/84)
3. Shri Pandurang B. Harmalkar (LCC/6/84)

V/s.

1. Shri Vijay K. Kadam, Partner — Opponents
2. Smt. Usha N. Gaikwad, Partner (in all the
3. M/s. Trimurti Products above 3 cases)

Panaji. Dated: 27-8-1984

AWARD

This is a consolidated award passed regarding the above 3 applications which were settled amicably by the parties on 27-8-1984.

2. In the 1st application, the applicant Shri Prakash Pednekar, has prayed that the Opponents be directed to pay him Rs. 648/- which was settled before the Conciliation Officer and the Opponents had agreed to pay but had not paid.

In the 2nd application, No. 5/84, the applicant Carlos Saldanha prayed that the opponents be directed to pay him a total amount of Rs. 2,200/-, as his legal dues.

In the 3rd application, No. 6/84, the applicant Pandurang Harmalkar has prayed that the opponents be directed to pay him the total amount of Rs. 1,050/- as his legal dues.

3. It is stated by the applicants that they were working for the Opponents and their services were terminated without assigning any reason and also without the payment of their dues.

4. The Opponents, in their written statement have agreed that in fact the matter was settled before the Labour Commissioner for the amounts of Rs. 648/- regarding the applicant Prakash Pednekar, Rs. 1,400/- regarding the applicant Carlos Saldanha and Rs. 450/- regarding the applicant Pandurang Harmalkar.

5. As the Court noticed that all the parties wanted to settle the matter amicably before this court, time was granted to arrive at a settlement, which was finally arrived at and the terms filed before this court on 27-8-1984.

6. The terms of settlement are as follows:

"Both the parties are present before me and state that the matter of all the above 3 cases was already settled before the Asstt. Labour Commissioner in the following terms:

The Opponents would pay to the Applicant, Shri Prakash Pednekar Rs. 648/-; to the Applicant Shri Carlos Francis Saldanha Rs. 1,400/-; and to the Applicant Shri Pandurang Harmalkar Rs. 450/-, and, after such payment was made, the applicants would not have any other claim against the Opponent/Employer in so far the above three mentioned cases are concerned. Accordingly, the Employer/Opponent has now issued 3 cheques bearing Nos. AS 551589 for Rs. 648/-; AS 551588 for Rs. 1,400/-; and AS 551590 for Rs. 450/-, dated 1-9-1984, drawn on United Commercial Bank, Mapusa (Goa) respectively, in favour of the above applicants which are now handed over to each of them.

The Applicants, after receiving the cheques, state that, in view of the payment made and subject to the realisation of the amounts of the cheques, they drop their claims in the above applications, which may be treated as disposed off."

7. As the said terms are just and fair to all the parties, I accept them and pass the following order:

ORDER

Consent Award in terms of the above settlement is hereby made and the above three applications are disposed off, with no order as to costs.

Dr. Renato de Noronha
Presiding Officer
Labour Court

Order

No. 28/2/84-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 25th September, 1984.

**IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN AND
DIU, PANAJI GOA**

(Before Dr. Renato de Noronha, Hon'ble Presiding Officer)

Application No. IT/10/81

1. M/s. Zuari Agro Chemicals Limited — Applicant

V/s.

1. Mr. Rosario Fernandes — Opponent

Applicant represented by Shri Ramesh Desai, Labour Advisor and Adv. P. K. Rele.

Opponent represented by Adv. Ferdino Rebelo and Adv. J. Gadkari.

Panaji. Dated: 5-9-1984

A W A R D

By my order dated 15-10-1982, I have disposed off the preliminary issue in respect of the fairness of the domestic inquiry held by the applicant employer against the opponent workman. The contents of the said order, which shall be read as forming part of this Award, are hereby reproduced as under:

"This is an application under Section 33(2) of the I.D.A., 1947, hereinafter briefly called the Act, filed by the above applicant for approval of the dismissal order passed against the above opponent during the pendency of the reference made by the Government under Order No. 28/1/79/ILD dated 25-7-1980.

2. It is applicant's case that some of the workmen of the applicant Company indulged in acts of indiscipline such as interference with the work of contractors and other workers on and from the evening of September 6th 1980. The workmen indulged in several acts of vandalism and violence such as toppling company vehicles, damaging company property, and assaulting company Officers. The Government of Goa, Daman & Diu, by their Order No. 28/1/79-ILD dated 25-7-1980, has referred for adjudication by this Tribunal the dispute raised by the Zuari Agro Chemicals Limited Employees' Union (Goa) in regard to the promotion of Shri D'Melo. The Union, by their letter dated 8-9-1980, advised the Company that the workmen will resort to an indefinite strike with immediate effect. Since the strike was commenced in contravention of Section 23(b) of the Act, it is an illegal strike. The Opponent Rosario Fernandes was directly involved in these acts of indiscipline and, therefore, the Company issued to him a charge-sheet dated 15-9-1980 for the following misconducts:

"1. Riotous and disorderly behaviour inside and outside the premises of the establishment (XI).

2. Assault or threat of assault within and outside the premises of the Company (XL).

3. Going on illegal strike, inciting, instigating and acting in furtherance thereof (II).

4. Acts subversive of discipline or good behaviour on the premises of the establishment (XII)."

A domestic inquiry was held ex-parte, as the opponent did not participate in it and the E. O. submitted his findings holding the opponent guilty of:

"1 Riotous and disorderly behaviour in that:

(a) You alongwith other workmen toppled company vehicles.

(b) You actively participated in pelting stones on the Administrative Building and damaging the park in front causing extensive damage to the company property.

2. Assault and threat of assault on the Officers of the Company.

3. Going on illegal strike.

4. Acts subversive of discipline and good behaviour on the premises of the establishment."

The applicant company, having gone through the inquiry proceedings and having considered the past record of the opponent, decided to dismiss him from services with effect from the date of the letter of dismissal, i.e. from 24-12-1980. The Opponent has been paid wages for one month under clause (b) of sub-section 2 of Section 3 of the Act. It is prayed that approval be granted to the action taken by the applicant company against the opponent.

3. The Opponent, in his reply, denied: that he was involved in any acts of indiscipline, vandalism and violence, as alleged; that any dispute was raised by the Union regarding the promotion of Shri D'Melo; that any charge-sheets were issued to him and inquiry conducted ex-parte; that any findings were given by the E. O. and that the Opponent was paid one month's wages and put the applicant company to the strict proof of such allegations; without prejudice to the above denial and assuming without admitting that the documents accompanying the application are in existence, he stated that the alleged inquiry was conducted in complete violation of the principles of natural justice, without affording a fair and reasonable opportunity to the opponent to participate in it and, in any case, the applicant has failed to make out a case for dismissal of the opponent. This is a case of victimization against the opponent, who was an active worker of the Union. Many other workmen found guilty of same or similar charges were subjected to much lesser punishments.

4. Following issues were framed by the Tribunal:

"1. Do the Applicants prove that they have dismissed the workmen after holding a fair and proper inquiry against them as per the provisions of law and Standing Order, if any?

2. Do the Applicants prove that they have complied with the provision of Section 33(2)(b) of the Industrial Disputes Act?

3. Do the Opponents prove that they have been victimized for being office bearer/leading activist of the Union?

4. Do the Opponents prove that they have been subjected to unfair discrimination?

5. What relief?"

5. The applicant objected to the framing of issues regarding victimization and discrimination, alleging that such issues do not find place in an application for approval under Section 33(2) of the Act, wherein the Tribunal is concerned only with an enquiry as to whether a prima-facie case has been made out for dismissal/discharge of the workman and cannot examine whether the punishment imposed is proper or not in the facts and circumstances of the case. Heard the other party, the objection was over ruled by the Tribunal by its Order dated 22-1-1982.

6. The representatives of both the parties requested that evidence in this case and in cases Nos. 5, 6, 9 and 11 of 81, being common, be retained in one file and admitted in the other files; similarly, evidence in cases Nos. 7 and 8 of 81, being common, be retained, in one file and admitted in the other. Accordingly, it was decided that evidence in cases Nos. 5, 6, 9, 10 and 11 of 81 be retained in file No. IT/5/81 and evidence in cases Nos. 7 and 8 of 81 be retained in file 7 of 81. It was further agreed that the preliminary issue regarding the fairness of the inquiry be disposed off first. Consequently, evidence was led by the parties, but restricted to the preliminary issue. The applicant examined the Inquiry Officer, who produced the original inquiry proceedings. The opponent led his own evidence. The representatives of both the parties argued at length.

7. The first submission made by the Opponent's rep. in the course of his arguments is that the domestic inquiry was not held by a competent authority and the punishment was also not imposed by competent authority.

The Ld. Rep. of the applicant, on his side, replies that the Opponent cannot raise this contention at this stage, but had to raise it in his written statement.

According to me, this objection of the applicant cannot be sustained. It is well settled today that, in industrial adjudication, the law of pleadings cannot be applied in all its strictness (vide the S. C. Ruling in Tandur and Navandji Stone Quarries (P) Ltd., Bhasheerabad, Andhra Pradesh and their workmen in FLR Vol. VIII 1964 page 277), but the general principles of pleadings which require that the parties should be confined to the case set up by them are applicable (vide Allahabad High Court Ruling in Glaxo Laboratories India Ltd., Alligarh V/s. Glaxo Staff Association and Others reported in 1974 I LIC page 765 and S. C. Ruling in M/s. Parry and Company Limited and P. C. Pol and others in II LLJ 1970 page 429).

8. The stand taken by the opponent in his written statement was that he was unaware of any ex-parte proceedings taken against him by the applicant and he had put the company to strict proof thereof and added that, in any case, he was not given a fair and reasonable opportunity to participate in the inquiry proceedings. He has further stated that he is not aware "whether he has been legally and properly dismissed by the Company". On the basis of the pleadings of the parties, issue No. 1 was framed by the Tribunal and it reads as follows: "Do the applicant prove that they have dismissed the workmen after holding a fair and proper inquiry against them, as per the provisions of law and S. O. if any?" In view of this issue, therefore, it was incumbent on the applicant to prove not only that an inquiry was held against the opponent but also that such inquiry was fair and proper, as per the provisions of law and S. O., if any. "Proper Inquiry as per the provisions of law and Standing Orders" would also mean that the person who held the inquiry was duly appointed by competent authority and the punishing order was also passed by the competent authority. Therefore, the contention of the Ld. Rep. of the applicant that the Tribunal cannot entertain the submission of the Ld. Rep. of the Opponent that the domestic inquiry was not held by competent authority and the punishment was also not imposed by competent authority because this objection was not raised in the written statement has no substance. As I have stated above, although the opponent has not specifically raised the objection that the inquiry was not held by competent authority and the punishment was also not imposed by competent authority, he has raised it in a general way, alleging that he is not aware whether he has been legally and properly dismissed by the Company and has put the Company to strict proof thereof and, on the basis of this allegation, issue No. 1 was framed, as reproduced above.

9. Applicant's rep. cannot argue that he was taken by surprise with the above submission made by the Opponent's rep. at the time of arguments, because, while cross-examining the Inquiry Officer, the opponent's rep. has made it very clear that this was one of his contentions in defence.

10. I, therefore, hold that the submission made by the Opponent's rep. cannot be considered as a new point now raised for the first time, as contended by the Company's rep., since it is implied in the written statement of the opponent.

11. Let us see now whether the domestic inquiry held by the company against the opponent was held by a competent authority and the punishment also imposed by the competent authority.

12. In the certified S. O. of the applicant Company (Exh M-15 of the Inquiry Proceedings) the following definitions are found:

Section 1 (a): Company means Zuari Agro Chemicals Limited having its registered office at Jai Kissan Bhavan, Zuarinagar Goa.

Section 1 (f): Manager means the Managing Director or the Technical Director or Directors or Vice-Presidents or the Works Manager or person for the time being managing the establishment and includes any other Officer duly authorised to exercise powers of the Manager, such authorization being notified to the workmen by displaying it on the Notice Board of the Establishment.

Section 1(g): Management means the Managing Director or the Technical Director or Directors or Vice-Presidents or the Works Manager or such other Officer or Officers as may be authorised to exercise the powers of the Manager.

Section 6 of the S. O. provides that the order of appointment confirmation, promotion or reclassification of every workman excluding casual workman shall be signed by the Manager or person authorised in this behalf.

Section 15(IIa) provides that the leave sanctioning authority is the departmental head concerned.

Section 19(IX) prescribes that any order of termination of services shall be in writing and shall be signed by the Manager.

Section 24 deals with punishment. Sub-Section I clause (a) refers to warning or censure; (b) fine; (c) suspension without wages and allowances. Such suspension, as per the provision, is to be carried out by an order in writing signed by the Manager for a period not extending 15 days.

Sub-Section VII provides that in awarding punishment under this S. O. the Manager shall take into account the gravity of the misconduct, the previous record if any of the workman and any other extenuating or aggravating circumstances that may exist.

13. The above quoted provisions are silent regarding who is the competent authority to order domestic inquiry against a workman for an alleged misconduct but from sub-section VII it is clear that the punishment, atleast for the penalties referred to in clause (c) onwards, is to be imposed by the Manager.

14. In the case of State of Madhya Pradesh and others V/s. Shardul Singh reported in 1970 (1) S. C. Cases page 108, the S. C. while interpreting Section 311(1) of the Constitution, has held that the said provision does not in terms require that the authority empowered under that provision to dismiss or remove an official should itself initiate or conduct the inquiry, preceding the dismissal or removal of the officer or even that the inquiry should be done at its instance.

Although this ruling was passed in a different context, namely regarding the correct interpretation of Section 311(1) of the Constitution, it makes it clear that the power to order disciplinary proceeding and the power to punish are two distinct powers, the last one has to be exercised by the authority prescribed by the statute but the first one can be exercised by a different authority when the statute does not require in terms that it has to be exercised by the punishing authority.

15. In Hindustan Brown Boveri Limited and their workmen and another reported in FLR Vol. 16 1968, page 325, relied upon by the Ld. Rep. of the Opponent, the S. C. has held that where the S. O. give some definitions for the purpose of distribution of duties, only those definitions are relevant.

16. In our case, the S. O. in clear terms provide that the punishing authority is the Manager but are silent regarding who is the competent authority to direct the domestic inquiry. It could be said that since the Company acts through its Board of Directors, this Board would be the competent authority to direct such inquiry, but I do not think that this would be the proper interpretation of the provisions of the S. O. Indeed, the power to punish is certainly more important than the power to direct the domestic inquiry. The former has been under the S. O. put in the hands of the Manager and since nothing has been provided regarding the latter it would not be reasonable to assume that it has been left to be exercised by the Board of Directors, which is the maximum authority through which the company acts. I think that the Head of the Department, being the highest authority in the Department, the power to direct the domestic inquiry should be deemed as included within his powers.

The Opponent, as per his statement before this Tribunal, was working in the Maintenance Department and the E. O. was appointed by Shri Deshpande, Manager of Personnel and Administrative Department (vide Exh. 5A(2) and 5A(3) in file No. 5/81). Both the chargesheets were issued to the workman by the Works Manager and the Dismissal Order was passed by the Vice-President (Technical). Even if it is held that the Manager, Personnel and Administration, not being the Head of the Department where the opponent was working, was not competent authority to direct the domestic inquiry and appoint the E.O., the fact that the report and findings of the E.O. were accepted by the Vice-President (Technical), who comes within the definition of Manager given in Section 1(f) of the S. O. and who, on the basis of the said findings, passed the dismissal order would amount to ratification by the Manager of the irregularity if any, in the appointment order of the E. O.

I conclude, therefore, that the Inquiry was held by the competent authority and the dismissal order was also passed by the competent authority.

17. In the case of Hindustan Brown Boveri Limited quoted above the S. C. has held that where the S. O. reserve the power of dismissal to a particular authority, it is this authority who has to exercise this power.

18. Let us see now whether the domestic inquiry held by the applicant company is fair:

I have carefully perused the inquiry proceedings and it is clear from them that the E. O. made various attempts to secure the presence of the opponent in the inquiry but without success and hence the proceedings were taken ex-parte.

The allegation of the opponent that, in view of the advertisement published in the Newspaper, he went on both occasions to Keni's Hotel, once to collect the charge sheet and, on the second occasion, to attend the inquiry, but that no charge sheet was kept in the Hotel, nor was there anybody to conduct the inquiry, although a room was booked by the Company, cannot be accepted as true. It is to be noted that the opponent, who was an active member of the Union, has admitted in his cross that the above two facts, namely going to collect the charge sheet and returning without it and going to attend the inquiry and nobody being there to conduct the inquiry are important facts in so far as his defence is concerned, but nevertheless they do not find place in his written statement, although it is stated that he had mentioned them to his Advocate. He informed the Union and he saw the letter written by the General Secretary of the Union to the Management of the Company referring those facts. However, no such letter was shown to have been sent by the Union to the Company. I am led to believe that the Opponent deliberately did not go to Keni's Hotel to collect the charge sheet or to attend the inquiry and, hence, he cannot complain about the fairness of the inquiry held against him.

19. The Opponent's rep., in the cross-examination of the E. O., has suggested that leading questions were put to the witnesses, by this way spoiling the fairness of the inquiry, which suggestion was strongly denied by the E. O. Otherwise, putting leading questions does not vitiate the inquiry but only entitles the Labour Court not to attach any weight to such evidence obtained by way of answer to the leading question, as it has been held by the Calcutta High Court in its ruling in the case of Howra Trading Co. Pvt. Ltd. and IV Industrial Tribunal, West Bengal and another, reported in II LLJ 1966 page 282.

In our case, however, it is not proved that leading questions were put to the witnesses so as to vitiate the result of the inquiry.

20. It is further urged by the Ld. Rep. of the Opponent that the E. O. did not make any efforts to find out whether documentary evidence regarding the incidents which were subject matter of the Inquiry was available; did not examine the police officer before whom complaints of assault were made, nor the photographer who had taken photographs which were produced in the enquiry, and so, it is alleged, a formal enquiry was held by the E. O. on which the Court cannot rely.

It is to be noted, however, that Tribunals exercising quasi Judicial functions—and the Industrial Tribunal is one of them—are not courts and, therefore, they are not bound to follow the procedure prescribed for trials by Courts nor are they bound by strict Rules of evidence. They can, unlike courts, obtain all information material for the points under inquiry from all sources and through all channels without being fettered by rules and procedure which govern proceeding in courts, as it has been held by the S. C. in State of Mysore and Sivabasappa Shivappa, reported in I LLJ 1964 page 24.

21. The S. C. has also held in the case of Major U. R. Bhat V/s. Union of India, reported in FLR 1961-62 Vol. 21 page 478 that an officer, holding a departmental inquiry, is not bound by the strict rules of the Law of Evidence and when the employee declines to take part in the proceedings and fails to remain present it will be open to the E. O. to proceed on the materials which were placed before him.

22. Another submission made on behalf of the opponent is that the domestic inquiry was held without calling for an explanation from the opponent on the charges levelled against him and the punishment was also imposed without giving the workman final show cause notice as to why the intended punishment should not be imposed.

In this respect, I should say that there is no statutory obligation cast on the Management to call for an explanation before directing the domestic inquiry (vide S. C. Ruling in Fire-Stone Tyre and Rubber Co. Ltd. and their workmen, reported in 1967 II LLJ 715 and Madras High Court Ruling in Anglo American Direct Tea Trading Co. Ltd., and Labour Court, Coimbatore, and another reported in I LLJ 1971 page 147).

23. It is contended by the Ld. Rep. of the Opponent that when the S. O. prescribe a certain procedure for the inquiry, such procedure had to be followed. For this purpose, he relies on the S. C. Ruling in the case of Imperial Tabaco reported in II LLJ page 1961. In the instant case, it is alleged, Section 24(iv) of the S. O. of the Company, while prescribing the procedure for the inquiry, makes it compulsory for calling for an explanation of the facts mentioned in the charge-sheet before the inquiry is ordered, which provision has not been followed by the employer. I cannot agree with the above submission that Section 24(iv) of the S. O. makes it compulsory for calling for an explanation of the workman before the inquiry is ordered. What Section 24(iv) provides is that the charge-sheet issued to the workman should set forth all the circumstances appearing against him and *requiring explanation*. Nowhere it is said that explanation should be called for before the inquiry is ordered. The workman can give such explanation in the course of the inquiry, if he so desires.

24. Regarding final show cause notice, the S. C. Ruling in the case of Laxmi Ratan Cotton Mills in II LIC 1975 page 1204, relied upon by the Ld. Rep. of the Opponent, is not attracted in our case because there the S. O. expressly provided for such notice, which does not happen in our case.

25. It is also contended by the Ld. Rep. of the Opponent that Section 24(vii) of the S. O. makes it compulsory for the punishing authority, at the time of imposing the punishment, to apply its mind to the gravity of misconduct, the previous record of the workman, if any, and any other extenuating or aggravating circumstances that may exist. The punishing authority, it is alleged, has not effectively applied its mind to the previous record of the workman, but only formally complied with the said provision by referring to it.

But it is not so. The dismissal order in the instant case makes express mention that the past record of the workman was considered and no extenuating circumstances were found but only aggravating circumstances to warrant a severe punishment and, in view of the gravity of the acts of misconduct established in the inquiry, has decided to dismiss him. This would be sufficient compliance with the requirements of the said provision of the S. O., as it was held by the Bombay High Court in its Ruling in the case of Raymond Woolen Mills Ltd. and A. K. Torat reported in FLR Vol. 40 page 13.

26. Also the Madras High Court in its Ruling in the case of Solar Works Madras and their workmen and another, reported in I LLJ 1968 page 765 has held that when a misconduct per se is sufficient to justify the dismissal because of its serious nature, there is no scope at all for entertaining any apprehension that the Management failed to give due weight to the provisions of the S. O. regarding previous record and that if it had done so a different result would have followed.

27. Finally, regarding the fairness of the inquiry ex-parte held, it would be relevant to quote the observations made by the S. C. in its Rulings in Laxmi Devi Sugar Mills Ltd., V/s. Ram Swarup and others, reported in 1956 I LLJ page 17. In this Ruling, the S. C. has held: If due notice of the inquiry was given and the workmen did not avail of the opportunity to present themselves and defend their action, they had only to blame themselves for it. If full and free opportunity was given to the workmen to present themselves and defend themselves, it could not be stated that the Inquiry was nothing but fair. No principles of natural justice were violated and the Management was at liberty to come to its own conclusion in regard to the culpability of the workman and also regarding the punishment to be imposed on them. It was not open to the workmen, having regard to the attitude adopted by them throughout, in relation to the inquiry, to urge that the inquiry was not fair or impartial or that the principles of natural justice had been violated by the General Manager in the conduct of the inquiry. The scope of the inquiry under Section 33 is only to see whether the ban imposed by Section 33 should be lifted. A prima-facie case has to be made out by the employer for lifting of such ban and the only jurisdiction the Tribunal has is

either to give such permission or to refuse it provided the employer is not acting mala-fide or is not resorting to an unfair practice or victimization. The Tribunal would not be concerned with the measure of the punishment nor with the harshness or otherwise of the action proposed to be taken by the employer except perhaps to the extent that it might bear on the question whether the action of the Management was bona-fide or actuated by the motive of victimization.

28. In view of all that is stated above, I hold that the domestic inquiry ex-parte held by the Company against the Opponent is fair and proper."

Now, the subsequent numbering of paras in this Award shall be in continuation of the Order dated 15-10-1982 reproduced above.

29. Issue No. 2 regarding the non compliance of Section 33(2)(b) of the Act was not pressed by the parties and, hence, it is to be considered as dropped.

30. As issues No. 3 and 4 concerning victimization and discrimination were to be proved by the workman, the Ld. Rep. for the workman moved an application dated 24-7-1981 praying that the employer be directed to produce the documents listed in the schedule concerning several other workers charge-sheeted on the occasion with same or similar charges, found guilty and punished with lesser punishment. This application was objected to by the employer's rep. and, finally, disposed off by my order dated 22-1-1982, directing the employer to produce the required documents within 15 days. In compliance with this direction, the employer produced one statement showing the past record of other workmen prior to the incident of 1980-81 and later also one file containing the copies of the charge-sheets, findings, punishing orders, etc., of the other workmen against whom inquiry was held on the same occasion, which documents, by consent, were taken on record in file No. 5/81 and marked as Exh. O-1 colly. Also a chart showing the past record of the said workers alongwith the charges framed against them and the punishment imposed regarding the same incidents which are subject matter of these proceedings was produced by the workman's rep. in case No. 7/81, which was marked as Exh W-4. In the same case 7/81, the past record of the Opponent and others, against whom inquiry was held for the incidents, subject matter of these proceedings, was produced by the employer and marked as Exh. E-6.

31. Since the inquiry in this case was held fair and proper by my order dated 15-10-1982, the only points which arise for my consideration now are:

- i) Whether the employer has made out a prima-facie case in the inquiry regarding the misconducts alleged in the charge-sheet; and
- ii) Whether the punishment imposed on the workman is justified or whether, while imposing such punishment, there has been discrimination, which discrimination would amount to victimization.

32. Considering first the point of prima facie case:

In the charge sheet issued to the Opponent workman (Exh M-1 in the inquiry proceedings Exh 10A-1) the following charges were levelled against the Opponent:

- a) Riotous and disorderly behaviour inside and outside the premises of the establishment. (XI)
- b) Assault and threat of assault within and outside the premises of the Company. (XI)
- c) Going on illegal strike, inciting and instigating and acting in furtherance thereof. (II)
- d) Acts subversive of discipline or good behaviour on the premises of the Company. (XII).

33. In support of the said charges the Management has led evidence on the following incidents:

- i) Toppling of the Jeep GDE 430 on 6-9-1980;
- ii) Toppling of the Jeep GDL 3012 on 7-9-1980;
- iii) Stone throwing incident on 7-9-1980;
- iv) Assault on Goyal on 6-9-1980;
- v) Assault on S. S. Sohal on 7-9-1980;
- vi) Assault on J. Kora on 7-9-1980;
- vii) Assault on Batikar, Quadros, Gomes and Ashok Kumar, Officers of the Company on 8-9-1980;
- viii) Assault on Varik on 8-9-1980; and
- ix) Strike.

34. On the incident of toppling of the Jeep GDE 430: MW-10, 11 and 14 gave evidence as eye witnesses:

MW-10, V. K. Shewale, who is the Security Inspector working with SOMC, has stated that the workers of the first shift joined by the workers of the General shift surrounded the company's jeep No. GDE 430, which was going out with Engineer Dholkia; the worker Robert D'Souza rushed towards the jeep and was shouting at Dholkia to get out; Mr. Parekh rushed towards the jeep and he and others rescued Dholkia and took him to the gate house; the witness saw Rosario Fernandes in the crowd standing on the left side of Robert D'Souza near the front wheel; the moment Dholkia came out, Robert shouted 'Lift, Lift' and the crowd including Nagvenkar, Rosario, William, Bandekar, Bosco, Cardozo etc., lifted the jeep from the left side and toppled on the driver's side.

MW-11 Siddu, Fire Security Inspector with SOMC who has confirmed the version of the preceding witness and stated that among the workers who toppled the jeep he saw Rosario Fernandes giving a helping hand to topple the same.

Mr. Parekh? M-14, Security Administrator with SOMC posted at Zuarinagar has also corroborated the version of the other 2 witnesses giving more details. He saw Rosario Fernandes in the crowd shouting and asking Dholkia to go away from the site. After he reached Dholkia to the gate house, he heard a big noise and when he turned back he saw the jeep GDE 430 toppled. After that he saw Rosario Fernandes, P. M. Kutty and about 20 to 30 workers running towards the Administrative Building. The Photos M-28 and M-29 show the jeep in a toppled condition and the evidence of the above 3 eye witnesses and especially of MW-10 and 11 is sufficient to prima-facie prove that Rosario Fernandes was directly involved in this incident.

35. On the incident of toppling of Jeep No. GDL 3012 on 7-9-80:

MW-11 B. S. Siddu, MW-12 U. J. Naik and MW-15 K. D. Thampan actually saw Rosario Fernandes along with others toppling the jeep. MW-10 V. K. Shewale saw Rosario Fernandes in the group that surrounded the jeep when it was going out of the gate, with Parekh, Siddu and Madhu who were proceeding to the Administrative Building to attend to an emergency call to extinguish fire when the jeep was stopped, the occupants evacuated and the vehicle toppled. Although Rosario Fernandes was in the crowd, the witness did not state that he saw him toppling the jeep. MW-14, P. S. Parekh saw Rosario Fernandes banging on the jeep and inciting others to topple the vehicle which was subsequently toppled. All the above witnesses are eye witnesses to the incident and their evidence shows that Rosario Fernandes has actively participated in it.

This evidence, considered with the photograph M-28 showing the jeep in a toppled condition by the side of the jeep 430, and the FIR M-27 based on the complaint lodged by Mr. Pillai, and the report of the incident in the Security Diary, in which names of the persons involved in the incident are not disclosed would prima-facie prove that the incident had taken place and that Rosario Fernandes was involved in it.

36. On the incident of Stone throwing at the Administrative Building:

MW-10 saw Rosario Fernandes taking active part and inciting others to damage the park in front of the building;

MW-11 saw Rosario Fernandes pelting stones at the Administrative Building;

MW-12 saw Rosario Fernandes throwing stones at the Administrative Building and damaging the park in front; and

MW-18 saw Rosario Fernandes moving in the crowd that was damaging the building, and inducing others to do the same.

This evidence, considered along with the photos M-31, M-32, FIR and M-27 based on Pillai's complaint, proves prima-facie the incident and the involvement of Rosario Fernandes in it.

37. Assault on Goyal:

The only witness to this assault is Goyal himself, who has stated that on 6-9-1980 he was going on his motorbike to his residence at 'C' colony. When he reached the administrative building, a crowd which was gathered on the Southern side of the road, came rushing towards him at the junction. Rosa-

rio Fernandes, was in front; he caught hold of his motorbike which was in slow speed as he was climbing up a gradient; he was surrounded from all sides; somebody hit him on the head and smashed his spectacles; his motorbike was damaged. Then they told him to go away and dispersed. He walked along with his bike towards the gate and narrated the whole incident to Mr. Parekh, who was on duty near the gate. He, Parekh and Mr. Almeida, Shift Superintendent, went to Vasco Police Station and he lodged a complaint.

Mr. Parekh, in his statement, has confirmed that Mr. Goyal came and told him about this assault and that Goyal was quite excited at that time. This evidence, read with the police complaint Exh M-19, a carbon copy of which is on record, would be sufficient prima-facie evidence to prove the incident and the involvement of Rosario Fernandes in it.

38. Assault on S. S. Sohal on 7-9-1980:

Shri S. S. Sohal, MW-1, in his statement, has involved Rosario Fernandes and some others in the assault on his person on 6-9-1980. He has stated that Rosario Fernandes signalled him to stop his car and, the moment he stopped the car, was surrounded by the workers; when he was talking to Rosario Fernandes, Bandekar hit him from behind; then Raju kicked him when he told Bandekar to behave properly; meantime, one car was coming; when he turned to look at the car, Rosario Fernandes kicked him.

This evidence, read with the evidence of MW-7 V. V. Yalgi, who rescued Sohal, and the Police complaint lodged by the victims Exh E-18 and Sohal's complaint M-17 to the Personnel Department, in which the name of Rosario Fernandes has been expressly mentioned would be sufficient prima-facie evidence to prove the assault on the victim and the involvement of Rosario Fernandes in it.

39. Assault on J. Qora on 7-9-1980:

The Inquiry Officer had given the benefit of doubt to Rosario Fernandes in so far this assault is concerned.

40. Assault on Batikar, Quadros, Gomes and Ashok Kumar, Officers of the Company on 8-9-1980:

The Inquiry Officer has held as not proved at all the charge of assault against Mr. Gomes, but regarding Batikar and Ashok Kumar, has held that, although there is evidence that both of them were beaten by some of the workers in the crowd whose names are given, none of the witnesses examined in the inquiry saw Rosario Fernandes actually beating them. However, the evidence of MW-6 B. Quadros, MW-8 S. R. Batikar and MW-9 S. R. Priolkar proves that Rosario Fernandes actively participated in intimidating and coercing them. Regarding assault on B. Quadros, the E. O. did not give any finding. The only evidence in this connection is of Quadros himself, who has stated that, although Rosario Fernandes was in the crowd at Upasagar Junction, he cannot say whether he or anybody else from the crowd assaulted him from the back with sticks. The above evidence shows that there is no sufficient evidence to hold Rosario Fernandes guilty of assault on Batikar and others but evidence only to prove prima-facie that Rosario Fernandes took active part in intimidating and coercing them.

41. Assault on Varik on 8-9-1980:

The Inquiry Officer has given Rosario Fernandes the benefit of doubt in respect of his involvement in this assault. I fully agree with him in view of the reasons given in support of the said finding.

42. Strike:

The attendance card M-28 of the workman shows that Rosario Fernandes did not attend his work from 8-9-1980 onwards. This fact, read with the Union letter M-25 dated 8-9-1980 warning the employer that the workers will go on an indefinite strike with immediate effect for the reasons mentioned in the said letter, prima-facie shows that the absence of the workman was a deliberate absence due to strike.

This strike is to be considered as illegal under Section 23(b) and 24(1) of the Act, as it started during the pendency of the reference before the Industrial Tribunal of a dispute regarding the promotion of Mr. D'Mello by order dated 25-7-1980 published in the Official Gazette No. 17, II Series of the same date (Exh. M-26).

43. The Ld. Counsel for the workman, in his oral arguments, has made some general observations in respect of the above charges:

i) That none of the charges is preceded by a complaint in writing, which is the procedure usually followed, as per the statement of the employer's witness No. 8 Ulhas Keni; this fact would show that whatever complaints or reports existed must have been suppressed by the Management in order to manipulate the case as per its convenience. It is further observed that, in the case of assault on Bhatikar, the charge sheet is dated 15-9-1980 and the complaint is dated 16-9-1980.

ii) Some incidents narrated by the witnesses are not mentioned in the security diary and others, although mentioned, the names of the persons involved are not disclosed. According to him, names have not been purposely disclosed in order to enable the Management to implicate those workers who were instigating others and creating trouble in the factory.

iii) Regarding stoning and damaging the Administrative Building:

This is an important incident and ought to have been recorded in the security diary, had it taken place and even a police complaint ought to have been lodged, which has not been done.

iv) The charge of illegal strike is common to all workers. Never-the-less, only a few have been chosen for disciplinary action.

v) In spite of the stand taken by the Union that the past record of the workers was not considered while imposing the punishment, the employer did not try to lead any evidence in this respect. It was for the Management to prove that there was substantial compliance with the provisions of the S. O. regarding the past record, which the Management has failed to do. And when a provision of the S. O. is violated, approval under Section 33 has to be rejected. (Vide 1974 2 LLJ, page 84 of the Bombay High Court in Borosil Glass Work Limited and M. G. Chitale V/s. Richard M. de Souza.)

vi) Exh E-5, E-6 and W-4 prove that, for similar offences, the employer has imposed different punishments, thereby committing discrimination in order to victimize some of the workmen. It was for the employer to prove on what grounds discrimination was made, but the employer has not led any evidence in this connection.

44. I shall deal now with the above observations of the Ld. Counsel of the workmen:

i) Absence of written complaints to base the charges: Even assuming as true the statement made by witness No. 8, Ulhas Keni, that the usual procedure followed was of complaints in writing, it is to be noted that, as shown from the records, an atmosphere of terror and tension, caused by the workmen during the strike period, was prevailing on those days inside and outside the premises of the factory and, under such circumstances, one could hardly expect that there would be written complaints regarding all the incidents which were taking place in those days. Quick action was required and so the incidents were often orally reported and even over the phone and instructions also were given orally or over the phone. It cannot be argued, therefore, that only because some of the incidents have not been recorded in the security diary they did not take place at all. The occurrence of the incidents has been duly proved by the evidence led by the Management, which has been referred to above.

ii) Non disclosure of names in the security diary of the persons involved:

It has been stated by the Security Officer that it was a practice not to disclose such names, which fact has been confirmed by Shri Cordeiro, Personnel Officer. Therefore, no inference against the Management can be drawn only because the names of the persons involved are not mentioned in the security diary.

iii) Stoning and damaging of the Administrative Building: This incident, no doubt, is a very important one and, contrary to what is contended by the Ld. Counsel of the workman, it has been recorded in the security diary. Mr. P. S. Parekh, in his statement before the Inquiry Officer, has stated that he asked Thampan to make a report in the security diary of all the events of that day, as he was very busy. Thampan has stated that, as per the instructions of Parekh, he made the report of the incident in the security diary which are at Section No. 29, 30 and

32 at pages 34 and 35 and were shown to the Inquiry Officer.

iv), v) and vi) These points shall be considered while dealing with the point of victimization raised by the workman.

45. From all that is stated above, I can say that the employer has made out a prima-facie case, for punishing the workman for the misconducts committed by him.

46. The next question to be considered is as to whether the punishment imposed on the workman is justified or, although justified in principle, whether the employer has discriminated between this workman and other workmen, imposing more severe punishment on him, which severe punishment would suggest victimization.

47. It is contended by the Ld. Counsel of the workman that S. O. No. 22(VII) provides that, while awarding punishment, the Management shall take into account the gravity of the misconduct, the previous record, if any, of the workman or any other extenuating or aggravating circumstances that may exist. According to him, as per the 1974 Bombay High Court ruling referred to above, there should be effective application of mind by the punishing authority to the past record of the workman and not a formal or routine compliance of the said provision. The violation of this provision would lead to rejection of an application for approval. This point was also raised by the Ld. Counsel while advancing his arguments on the preliminary issue on the fairness of the inquiry, although the Bombay High Court ruling, now cited, was not cited at that time and it was also not within my knowledge at that time and, therefore, not considered by me while deciding the said contention, which was disposed of by me in para 25 of the said order dated 15-10-1982. This point, therefore, cannot now be re-opened.

48. The Inquiry Officer has, in his findings, held Shri Rosario Fernandes guilty of the following misconducts:

1) Riotous and disorderly behaviour as far as his involvement in the incidents of:

- i) Toppling of jeep GDE 430 on 6-9-1980;
- ii) Toppling of jeep GDL 3012 on 7-9-1980;
- iii) Stone throwing at the Administrative Building on 7-9-1980;
- iv) Assault on Goyal on 6-9-1980;
- v) Assault on S. S. Sohal on 7-9-1980;
- vii) Assault on Bhatikar, Quadros, Gomes and Ashok Kumar, all Officers of the Company on 8-9-1980, as per sub-clause XI of clause 22.

2) Rosario Fernandes's behaviour in incidents iv), v) and vii) above amounts to misconduct under sub-clause XL of clause 22 of the S. O. This sub-clause refers not only to assault or threat of assault but also to acts of intimidation and coercion against an employee of the Company. The acts, under No. (v) & (vii) although had taken place outside the premises of the company, since they are likely to affect discipline and work of the company, are covered by the said sub-clause XL.

3) Illegal strike from 8-9-1980 (Clause 22 sub-clause II).

4) Rosario Fernandes's involvement in incident i), ii), iii) and iv) which were within the precincts of the establishment as defined in clause 1 (c) of the S. O. M-15 are acts subversive of discipline and good behaviour, as per sub-clause XII of clause 22.

49. From paras 34 to 38 above, it is seen that I have accepted the above findings of the Inquiry Officer as prima-facie justified regarding incident (i) to (v) of number 1 of para 48 above regarding the charge framed against the workman. Concerning the assault on Bhatikar and Ashok Kumar, I have accepted only the charge of misconduct of intimidation and coercion of the company's employee.

The benefit of doubt given by the Inquiry Officer to the workman Rosario Fernandes in respect of assault on John Kora, Gomes and Varik has also been accepted by me.

Regarding assault on B. Quadros, the Inquiry Officer, perhaps by oversight, did not give any finding on the charge against him, but I have given him also the benefit of doubt.

50. Regarding misconducts referred to in numbers 2, 3 and 4 of para 48, I fully agree with the I. O. that the acts referred to therein for the reasons given in Nos. 2, 3 and 4 at page 7 and 8 of his findings amount to misconducts.

51. Standing Order 24 (1) prescribes the following punishments for misconducts:

- a) Warning or censure;
- b) fine;
- c) suspension without wages and allowances;
- d) with-holding of increment or increments or promotion or reduction to a lower post or time scale for a maximum period of one year;
- e) discharge from service without notice or payment in lieu of notice; and
- f) dismissal without notice or payment in lieu of notice.

52. I shall consider now the point of unfair discrimination amounting to victimization raised by the workman:

This point was raised by the workman in his reply to the application for approval filed by the applicant, wherein he had stated that this was a case of victimization against him, he being an active member of the Union and that many other workmen found guilty of same or similar charges were subjected to much lesser punishments. This discrimination was practised on the workman as he was Office bearer/Leader of the Union, which discrimination amounts to victimization. In spite of the objections raised by the employer to the framing of the issue regarding victimization in an application under Section 33(2) of the Act, issue No. 3 was framed by the Tribunal and the objection raised was dismissed by my order dated 22-1-1982.

53. By his application dated 24-7-1981 the Ld. Counsel for the workman requested the Tribunal to direct the employer company to produce the documents listed in the application regarding other workmen charged with similar charges, found guilty of the same and punished with lesser punishment. In spite of the objections raised by the employer, this application was granted by my order dated 22-1-1982 and the employer was directed to produce the documents asked for, which direction it has complied with.

54. For the misconducts proved against the workman, which are of a serious nature, he, undoubtedly, could have been punished with dismissal by the Management. It is to be noted, however, that Exh W-4, in file No. 7/81, read with the copies of the charge-sheets and the findings of the Inquiry Officer regarding other workers produced by the employer Exh O-1 colly. shows that, for similar misconducts committed by them, lesser punishments was imposed. For instance from Exh W-4 read with the copies of charge sheets and findings of the I. O. in respect of other workers it is seen that:

- a) Workman Jagir Singh was held guilty of:
 - i) toppling of Jeep GDE 430;
 - ii) stoning of administrative building and damaging the park;
 - iii) assault on Khanna;
 - iv) stoning Bhatikar;
 - v) illegal strike; and
 - vi) acts subversive of discipline.

His past record was not clean. Inquiry instituted against him for assaulting co-worker Nanu was dropped, in view of the apology tendered by him. In spite of this, he was punished by with-holding 4 increments during one year.

- b) Workman G. D. Abraham and M. R. Diman were held guilty of:
 - i) toppling vehicles;
 - ii) stoning administrative building;
 - iii) assault on John Kora and Khanna respectively;
 - iv) illegal strike; and
 - v) acts subversive of discipline.

Past record clean. Have been punished with withdrawal of 3 and 2 increments for one year, respectively.

- c) Workmen M. M. Cardozo and Harban Singh, held guilty of:
 - i) toppling vehicles;
 - ii) stoning administrative building;
 - iii) assault on Khanna;
 - iv) illegal strike; and
 - v) acts subversive of discipline.

Past record of Cardozo shows 5 charges, but enquiry dropped as per settlement dated 28-8-1980. Past record of Har-

ban Singh: Nil. Each of them punished by with-holding 2 increments for one year.

- d) Workman H. B. Bandekar, held guilty of:
 - i) stoning of administrative Building;
 - ii) assault on Sohal and Khanna;
 - iii) illegal strike; and
 - iv) acts subversive of discipline.

Past record: nil. Punishment imposed: 3 increments with-held for one year.

- e) Workman Shri B. D'Costa, held guilty of:
 - i) toppling of fire jeep;
 - ii) stoning of administrative building;
 - iii) assault on Khanna;
 - iv) illegal strike; and
 - v) acts subversive of discipline.

Past record: charge-sheeted for restraining and intimidating. Inquiry dropped, as per settlement dated 28-8-1980. Punishment imposed: 4 increments for one year with-held.

- f) Workman Shri Dominic Fernandes, held guilty of:
 - i) toppling of fire jeep;
 - ii) instigating the stoning of administrative building;
 - iii) assault on Varik;
 - iv) illegal strike, intimidation and coercion; and
 - v) acts subversive of discipline.

Past record: nil. Punishment: 2 increments for one year with-held.

- g) Workman Felix Fernandes, held guilty of:
 - i) toppling of jeeps;
 - ii) stoning of administrative building;
 - iii) obstruction of car;
 - iv) threat of assault on Security Administrative Officer;
 - v) illegal strike; and
 - vi) acts subversive of discipline.

Past record: nil. Punishment: suspension for 15 days.

- h) Workman H. C. Sharma, held guilty of:
 - i) toppling of jeep;
 - ii) stoning of administrative building;
 - iii) assault on Walke; and
 - iv) acts subversive of discipline.

Past record: charge sheeted for gherao; inquiry dropped, as per settlement dated 2-8-1984. Punishment: 2 increments with-held.

- i) Workman M. S. Saini, held guilty of:
 - i) toppling of jeep;
 - ii) stoning administrative building;
 - iii) illegal strike; and
 - iv) acts subversive of discipline.

Past record: nil. Punishment: warning.

- j) Workman Gurdip Singh, held guilty of:
 - i) toppling of jeep;
 - ii) stoning administrative building;
 - iii) illegal strike; and
 - iv) acts subversive of discipline.

Past record: nil. Punishment: nil.

- k) Workman P. M. Kutty, held guilty of:
 - i) toppling of jeep and V I. P. car;
 - ii) stoning of administrative building and inciting others;
 - iii) illegal strike; and
 - iv) acts subversive of discipline.

Past record: charged for failure to observe safety regulation and damage to the Company's property. No action taken. Punishment: 15 days suspension.

- 1) Workman L. J. Patel, held guilty of:
 - i) stoning administrative building;
 - ii) threat of assault on Kora;
 - iii) illegal strike; and
 - iv) Acts subversive of discipline.

Past record nil. Punishment: warning.

- m) Workman M. Narayan, held guilty of:
 - i) toppling of jeep;
 - ii) stoning administrative building;
 - iii) assault on Sohal;
 - iv) illegal strike; and
 - v) acts subversive of discipline.

Past record nil. Punishment: 15 days suspension.

55. The above chart shows that Dominic Fernandes was held guilty of similar misconducts as attributed to the workman Rosario Fernandes and was punished with withdrawal of 2 increments for one year. The past record of the workman Rosario Fernandes, shows a warning while that of Dominic Fernandes is clean.

Same is the case, with slight variations, of Jagir Singh, C. O. Abraham, M. K. Diman, M. N. Cardozo and Harban Singh, B. D'Costa, Dominic Fernandes, Felix Fernandes, H. C. Sharma, M. Narayan who were punished with withdrawal of 4 increments, 3 increments, 2 increments, 2 increments, 2 increments, 4 increments, 2 increments, 2 increments, suspension for 15 days, suspension for 15 days, respectively. Except for Jagir Singh, H. C. Sharma, M. Cardozo and B. D'Costa, whose past record is not clean, the others have their past record clean.

56. Why this discrimination against Rosario Fernandes?

According to the Ld. Counsel for the employer, there is no discrimination in so far Rosario Fernandes is concerned because:

- i) The offences are not the same;
- ii) And the participation of the concerned employees in the offences also differs.

He has relied inter-alia on the following rulings:

a) A. V. B. Workers Union and others V/s. State of West Bengal and others 1978 LIC page 1409, Calcutta High Court. In this case the question was whether dismissal of 3 employees for misconduct was justified. The Arbitrator appointed under Section 10(a) of the Act gave his finding that the dismissal was justified in all cases but granting relief to one employee on the ground that on similar set of facts as obtained in his case, company had taken lenient view in another employees case. The charge of discrimination raised by the Petitioner's counsel was refuted on the ground that if for the gross misconduct committed by all the workmen order of dismissal could be passed, then it was not open to the Petitioner to contend as to why such orders were passed against them even if the Company had taken a lenient view against another employee, which contention was upheld by the High Court in this Ruling.

b) Kaliprasad Muzumdar and others V/s. Brooke Bond India Limited 1954 1 LLJ 163, a ruling of the Labour Appellate Tribunal of India Calcutta. Here the question was whether the selection of some of the delinquent workmen for punishment amounts to victimization. The ruling held that all that has to be seen is whether the Tribunal has applied its mind to the salient points in the case and if the selection made by the Management in exercise of its discretion is *bonafide* coming to the conclusion that the conduct of some of them is much more objectionable than the conduct of the others, there is nothing wrong for the Management in either not taking action against those others by excusing them or inflicting a lesser punishment. It is only if the selection is made with motives of victimization, that would be improper.

c) Aditya Mills Limited V/s. Ram Dayal, 1974 LIC page 25, Rajasthan High Court. In this ruling their Lordships, after quoting the ruling of Calcutta High Court in National Tobacco Co. of India case, reported in AIR 1960 page 240, defines victimization as meaning one of the two things:

- 1st "Where the workman concerned is innocent and yet is being punished because he has in some way displeased the employer, for example by being an active

member of a Union of workmen who were acting prejudicially to the employer's interest;

2nd Where an employee has committed an offence, but he is given a punishment quite out of proportion to the gravity of the offence because he has incurred the displeasure of the employer in a similar manner as mentioned above. But where it is found that the employee is guilty of gross misconduct then there cannot be any question of victimization because it merits dismissal by itself." And then concludes: "In our opinion victimization consists in punishing an employee for any object other than the one of inflicting just and appropriate punishment for a proven lapse."

In this case, because of a strike alleged to have been incited by 3 workmen, an inquiry was conducted and the Inquiry Officer submitted his report saying that the charge of inciting the strike was proved against the 4 workmen. On the basis of this report, the 4 workmen were dismissed by the company. As some proceedings were pending in the Labour Court, approval for the dismissal under Section 33(2)(b) was sought for but the Labour Court declined to approve the Management's action.

In a Writ Petition filed to the Rajasthan High Court, the Single Judge who heard the case observed that, although the Labour Court did not bear in mind the precise scope of its jurisdiction, the ultimate decision in rejecting the Management's application was correct and called for no interference and dismissed the petition in limine. Aggrieved by that order, the Management filed an appeal. The question which fell for the determination of the Court was whether the Inquiry Officers report as a result of which the 4 workmen were dismissed was vitiated by the vice of victimization. The Labour Court had refused to look into the evidence of one J. N. Patel, presumably because it was recorded, in spite of the protests of the workman, after the closure of the case by the parties. "But even if we were to consider this evidence (says the ruling) what J. N. Patel stated was that 4 to 6 persons incited the others to go on strike. 4 workmen who are respondents before us have been dismissed but what happened to the other two who were also guilty of similar behaviour? Was their incitement less stimulating than of the respondents or is it a case of discrimination against those 4 at least qua the other 2? The answer is plain. Patel is unable to give us any reason why these 4 persons were chosen and the Inquiry Officer is equally silent. Discrimination, therefore, is inferable from this circumstance apart from the fact that this additional evidence has a semblance of an after thought. The workmen have been saying that because they joined another Union which was not to the liking of the Management, they were singled out. There may be some truth in this assertion, but we spell discrimination from N. J. Patel's evidence itself, which evidence was recorded after some deliberation by the Management."

I have quoted the above ruling in some detail because, although the employer has relied on the proposition mentioned therein in the first part that "where it is found that the employer is guilty of gross misconduct then there cannot be any question of victimization because it merits dismissal by itself", the remaining portion shows that discrimination amounting to victimization is possible when more than one workman is punished for gross misconduct and different punishments are imposed on them without any justification. The same ruling also shows that discrimination can be *inferrea* from the circumstances of the case.

57. The Ld. Counsel for the employer, relying upon the S.C. Judgement in M/s. Bharat Iron Works V/s. Bhagubhai Balubhai Patel and others, reported in LIC 1976 page 4 contends that when there is no defect in procedure in a domestic inquiry against an employee, the Tribunal, while granting or withholding permission under Section 33, does not sit as a Court of appeal weighing or reappreciating the evidence for itself but only examines the finding of the I. O. on the evidence of the domestic inquiry as it is, in order to find out whether there is a *prima facie* case or not. His further contention based on the said ruling is that a proved misconduct is antithesis of victimization as understood in industrial relations and that victimization being a serious charge by an employee against an employer must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employer to fully meet them. That the onus of establishing a plea of victimization will be upon the person pleading it; mere allegations, vague suggestions and insinuations are not enough. In the instant case, it is contended, the Tribunal has already held that the domestic inquiry conducted by the employer is fair and proper and with due compliance of the principles of natural justice. So, it would

be for the workman to prove his plea of victimization, if any. But for this purpose the workman had to plead it adequately giving all particulars to enable the employer to fully meet them, which he has not done. In his reply to the application, the workman has only alleged that he was an office bearer of the Union and has been victimized for his bonafide trade Union activities; that many other workers, who were found guilty of the same or similar charges, have been subjected to much lesser punishments while he has been dismissed. This discrimination has been practised because he is a office bearer/leader of the Union, which also amounts to victimization.

58. The above cited ruling, in its para 8, reads as follows: "It is apparent that victimization may partake of various types to cite one or two only, for example pressurizing an employee to leave the Union or Union activities; treating an employee unequally or in an obviously discriminating manner for the sole reason of his connection with Union or his particular Union activity; inflicting a grossly monstrous punishment which no rational person would impose upon an employee and the like."

59. And this is precisely the type of victimization alleged by the workman against him, i.e. discrimination while imposing the punishment of dismissal on him, as compared to the lesser punishments imposed on the other workmen found guilty of similar charges, which discrimination, according to the workman, has been committed by the Management only because of his leadership in the Union activities. Indeed, in his statement before the Court, the workman has stated that he was an active member of the Union, working in the Maintenance Department where there were lot of problems. He used to represent the grievances of the workmen to his superiors and if they were not attended to then he used to put them up to the Union. Because, of this leading activity he was dismissed. This would be according to me, sufficient compliance with the requirements of law that victimization should be adequately pleaded by the workman to enable the employer to meet the charge. In his cross, he has stated that he was not a member of the executive committee of the Union. Robert D'Souza who was the Vice-President of the Union, was also working in the Maintenance Department. He has denied that he was not an active member of the Union and that the grievances of the workmen of the Maintenance Department were looked after by Robert D'Souza, who was working in the same department.

60. Let us see now whether the alleged discrimination is proved against the applicant workman. I have already shown in para 55 above that, for similar misconducts, lesser punishments were imposed by the Management on some of the employees. In spite of the fact that the worker had raised, in his reply, the plea of victimization for his trade union activities, the employer did not examine in open court the punishing authority to elicit an explanation from him for such discrimination. However, the Ld. Counsel for the employer, in his oral arguments, tried to justify it, saying that the concerned workman was *not only participating in the violent incidents, but also inciting and instigating others to do the said acts.*

61. So far this workman is concerned:

Instigation and incitement, as per the charge sheet Exh M-1, refers only to the incidents of toppling of the Jeep No. 430 on 6-9-1980 and stoning and damaging the administrative building and the park in front on 7-9-1980 and so we are not concerned with incitement or instigation, if any, regarding other incidents. To prove such incitement or instigation the Ld. Counsel for the employer has taken me through the statements of Shewale (MW-10), Siddu (MW-11), U. J. Naik (MW-12), Parekh (MW-14) and Thumpan (MW-15), recorded in the domestic inquiry against the concerned workman.

MW-10, V. K. Shewale, has stated that after company's jeep GDE 430 came out of the gate with Mr. Dholkia sitting by the side of the driver, Kinlekar, it was surrounded by a crowd of workers. Somehow Dholkia was rescued and taken to the gate house. Rosario Fernandes could be seen standing on the left side of Robert D'Souza near the front wheel, shouting "Lift, Lift", the moment Dholkia came out. Then the crowd including Nagvenkar, Rosario, Bandekar etc. lifted the jeep and toppled it on the driver's side.

Regarding damage to the Administrative Building, Shewale has stated that when he, Thumpan, U. J. Naik and Siddu, after hearing noise of stone throwing and glass breaking, rushed towards the administrative building, where they saw a crowd of about 150 workers pelting stones at the building, damaging its window panes, doors etc. When Robert D'Souza, Nagvenkar were asked not to indulge in this sort of damage

Robert replied that the witness had no business to interfere. After this they started damaging the fence and the garden. He saw in the group: Robert D'Souza, Bandekar, William, Harban Singh and Rosario Fernandes, *taking active part and inciting the other workers to do so.*

MW-11, B. S. Siddu saw Rosario Fernandes in the crowd among those who toppled the jeep GDE 430 giving them a helping hand. He does not speak at all about any incitement or instigation by Rosario Fernandes regarding this incident.

In so far damage to the Administrative Building is concerned, he saw about 150 workers pelting stones at the Building and destroying the garden in front. Among them he saw Rosario Fernandes pelting stones at the Building. Here too there is not a single word regarding incitement or instigation.

MW-12, U. J. Naik's statement is in the same line as that of MW-11 but he has further stated that he saw Rosario Fernandes uprooting the plants and the fence.

MW-14, Parekh's statement regarding the incident of toppling of the jeep 430 is the same line as that of MW-10 Shewale but regarding intervention of Rosario Fernandes, he has only stated that he was seen in the crowd also shouting and asking Dholkia to go away from the site. He has further stated that when he reached Dholkia to the gate house, he heard a big noise and when he turned back he saw the jeep GDE 430 toppled on its right side. After that, he saw Rosario Fernandes, Kutty and some 30 workers running towards the Administrative Building.

Regarding damage to the administrative building, he has stated that he has not seen the incident but was informed about it. He contacted the Vasco police station and called the police. When the police arrived it was about 2.00 p.m., they saw the damaged building but at that time no worker of the company was there.

Finally MW-15, Thumpan has stated that on the 6th, when the incident of toppling of the jeep 430 occurred, he was on leave. On the 7th, when he resumed duties, he came to know about this incident.

Regarding damages to the administrative building, he has stated that he and other Inspectors and 2 policemen heard, the sound of stone throwing coming from the side of the administrative building, they ran towards the building; they saw a big crowd of about 150 workers indulging in stone throwing at the building, damaging the park in front and uprooting the fence. *Rosario Fernandes* alongwith Robert D'Souza, Bandekar, Harban Singh could be seen moving in the crowd of *inducing others to act.*

62. In almost all the inquiries held against the workman which led to their dismissal and whose files are now before the Tribunal, the charge of "incitement or instigation" has been levelled against the concerned workman and some of the witnesses examined have deposed in respect of such incitement or instigation. It is to be noted, however, that the same witnesses, when examined in the case of the other workmen equally charged with incitement or instigation, in their depositions referred to incitement and instigation regarding the particular workman against whom the inquiry was being conducted and did not even mention the names of others who, according to their statements in the particular file, were also found inciting and instigating. This fact leads me to believe that the witnesses were reminded of such incitement or instigation only when they saw the concerned workmen in the particular inquiry. Had some of the workmen had a prominent role in any of the incidents, especially regarding incitement or instigation, it is but natural that the names of all such workmen should have been mentioned by the witnesses in all the inquiries, which has not been done.

For example, witness Shewale who, in the file against Rosario Fernandes, has referred to this workman in the incident of toppling of jeep 430, as shouting to the crowd "Lift, Lift" as soon as Dholkia came out and the crowd including Nagvenkar, Rosario, Bandekar, etc. lifting it and toppling it to its side and regarding damage to the administrative building, having seen Robert D'Souza, Bandekar, William, Harban Singh and Rosario Fernandes taking active part in the destruction *and inciting others to do so*, has not mentioned the name of Rosario Fernandes in the file of Nagvenkar in so far the incident of toppling of jeep 430 and damage to the administrative building are concerned. Regarding this last incident and referring to *Robert D'Souza*, he has stated that "he was the person who was actually telling the other workers to pick up stones and throw on the building. He was all the time using filthy language while *inciting the workers.*"

This could raise a doubt whether Rosario Fernandes was or not inciting or inducing other workers to do the said acts. At any rate, since in an application under Section 33(2), we are concerned only with a prima-facie case and this court is not sitting as a court of appeal reappreciating the evidence recorded in the domestic inquiry, we can consider as prima-facie proved that there was such incitement or instigation on the part of the workman.

63. The allegation of the workman that he was an active member of the Union and was representing the grievances of the workers of his department to the Superiors and if they were not attended to then he used to put them up before the Union is denied by the employer and the workman has not led any other evidence in support of that fact. Besides, it is to be noted that since Robert D'Souza, who was the Vice President of the Union, was working in the same department, I fail to see as to why Rosario Fernandes would represent the grievances of the workers of his department to his Superiors and then put them up before the Union, as alleged by him.

64. We have seen in para 60 above that the extreme penalty imposed on the workman Rosario Fernandes is being tried to be justified on the ground that the workman has not only participated in the violent incidents but also incited and instigated other workmen to do the said Acts, which incitement or instigation, I have accepted as prima-facie proved.

65. But would such incitement or instigation be sufficient to justify the extreme penalty imposed on the workman by the Management when, for similar misconducts, wherein there was also incitement or instigation, other workers were punished with withdrawal of increments or suspension?

66. The case of the worker Dominic Fernandes does not differ much from the case of Rosario Fernandes. Indeed, while Rosario Fernandes having been held guilty of:

- i) toppling jeeps 430 and 3012;
- ii) damaging the administrative building and inducing others to do the same;
- iii) assault on Goyal and S. S. Sohal;
- iv) intimidation and coercion on Bhatikar and Ashok Kumar;
- v) illegal strike; and
- vi) acts subversive of discipline and good behaviour; and having only a warning in his past record was punished with dismissal;

The workman Dominic Fernandes, who was found guilty of:

- i) toppling of jeep 3012;
- ii) instigating the stoning of the administrative building;
- iii) assault on Varik;
- iv) intimidation and coercion;
- v) illegal strike; and
- vi) acts subversive of discipline and good behaviour;

With his past record clean was punished with withdrawal of 2 increments for a period of one year only!

67. Incitement and instigation is also proved against Shri Dominic Fernandes and M. M. Cardozo, Felix Fernandes, P. M. Kutty and Gurdip Singh regarding damaging of Administrative Building, G. D. Abraham, regarding toppling of jeep GDE 430 and damaging administrative building; other misconducts found proved are almost the same or similar with slight variations. The past record of Dominic Fernandes and Felix Fernandes, Gurdip Singh and G. D. Abraham is clean but of M. M. Cardozo and P. M. Kutty is not clean. So far Cardozo is concerned, the charges framed against him were dropped, in view of the settlement dated 2-8-1980 and, in the case of P. M. Kutty, no action was taken.

68. From the above mentioned facts inference is clear that the workman Rosario Fernandes, although with his past record unclean, has been discriminated by the Management

while being punished with dismissal, since for almost same or similar misconducts and even regarding some workmen with their past record unclean, much lesser punishment varying from a simple warning, as in the case of Gurdip Singh, to withdrawal of 2 and 3 increments and suspension for 15 days was imposed.

69. The allegation of Shri Rosario Fernandes that he was victimized because of his leadership in the union activities has to be accepted as true, in the absence of any convincing explanation coming from the punishing authority.

70. Coming now to the punishment to be imposed on the workman Rosario Fernandes:

Although this is an application for approval under Section 33 of the Act, wherein a domestic inquiry was conducted by the employer which was held fair and proper and with due compliance of the principles of natural justice by my order dated 15-10-1982, which has been reproduced above and although, in such cases, the Tribunal is concerned only with the question of granting or refusing, the approval the same does not happen when victimization is alleged and proved, because then the jurisdiction of the Tribunal is not confined to grant or refuse the approval but is wider: in such cases, the Tribunal will have full jurisdiction to interfere with the order passed by the employer in the domestic inquiry. The Supreme Court Ruling in the case of Bharat Iron Workers cited above, after stating that the Tribunal, when there is a domestic inquiry fair and proper and with due compliance of the principles of natural justice, does not sit as a court of appeal weighing or reappreciating the evidence for itself but only examines the findings of the Inquiry Officer on the evidence of the domestic inquiry as it is in order to find out whether there is a prima-facie case or if the findings are perverse. And then proceeds: "In the same case i.e. where there is no failure of the principles of natural justice in the course of domestic inquiry, if the Tribunal finds that the dismissal of an employee is by way of victimization or unfair labour practice it will then have complete jurisdiction to interfere with the order of dismissal passed in the domestic inquiry. In that event, the fact that there is no violation of the principles of natural justice in the course of the domestic inquiry will absolutely lose its importance or efficiency". (The underlining is mine).

71. After having arrived at the conclusion that the workman was victimized by the employer while imposing the punishment of dismissal on him when much lesser punishments were imposed on the other workmen found guilty of same or similar misconducts, now the question arises as to what punishment should be given to the workman for the misconducts found proved against him.

72. I have shown in para 66 to 68 above that for same or similar misconducts, some workmen were punished with withdrawal of 2-3 increments and some with 15 days suspension. The case of Rosario Fernandes and the case of Dominic Fernandes referred to above are much alike. Although Rosario Fernandes's case is slightly worse than Dominic Fernandes, — the latter was not involved in the incident of toppling of jeep 430, as Rosario Fernandes was, and the assault committed was only on Varik, while Rosario Fernandes was involved in the assault on Goyal and S. S. Sohal. Besides, the past record of Rosario Fernandes shows a warning, while that of Dominic Fernandes is clean. If, in the opinion of the Management withdrawal of 2 increments for one year was an adequate punishment to Dominic Fernandes, I fail to see as to why Rosario Fernandes was punished with dismissal, which is the extreme penalty in the list of punishments mentioned in the Standing Orders of the Company. Having regard to the nature of involvement of Rosario Fernandes compared to Dominic Fernandes in the incidents referred to above, and unclean past record of Rosario Fernandes, I feel that withdrawal of 4 increments during one year would be an adequate punishment to this workman.

73. In the premises above, I pass the following order:

ORDER

For all the reasons stated above, the order of dismissal passed by the employer against the workman cannot be sustained and hence it is hereby set aside. For the misconducts found proved against him, he is hereby punished with withdrawal of 4 increments during one year for all the misconducts committed by him which are subject

matter of the inquiry. The workman to be deemed as in continuous service till his reinstatement and entitled to full back wages. Costs of Rs. 600/- to be paid by the employer to the workman.

Dr. Renato de Noronha
Presiding Officer
Industrial Tribunal